

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

RODNEY E. SOUTHARD, )  
Plaintiff, )  
v. ) Case No. 4:17CV2714PLC  
RYAN ZINKE, Secretary of )  
Department of the Interior, )  
Defendant. )

**MEMORANDUM AND ORDER**

This matter is before the Court on the parties' joint motion to amend the Case Management Order ("CMO") [ECF No. 23]. The parties move for (1) a thirty-day extension of the discovery deadline (from December 21, 2018 to January 20, 2019) and of the deadlines for filing dispositive motions and related briefs (from January 7, 2019 to February 6, 2019 for the filing of such motions; from February 6, 2019 to March 8, 2019 for the filing of opposition briefs; and from February 20, 2019 to March 22, 2019 for the filing of reply briefs). The parties also seek a change in the four-day jury trial date from May 6, 2019 to June 17, 2019 or later, with the parties specifying certain weeks when they are unavailable.

A scheduling order, such as a CMO, "may be modified only for good cause and with the judge's consent." Fed. R. Civ. P. 16(b)(4). To demonstrate good cause for the modification, a party must show its "diligence in attempting to meet the [CMO]'s requirements." Bradford v. Dana Corp., 249 F.3d 807, 809 (8<sup>th</sup> Cir. 2001). A court may also consider "the existence or degree of prejudice to" a party opposing the modification. Id.

The parties report they have been “diligently working through discovery,” and set forth the discovery they have pursued. Parties’ joint mot. am. CMO at 1-2 [ECF No. 23]. With respect to discovery still needed, the parties’ state:

there are multiple requests for production that require email searches. The parties’ attorneys need to agree to search terms and parameters for those requests. Once the parties decide the applicable search terms and parameters for each request, it may take several weeks for the Defendant to locate responsive emails. Additionally, Plaintiff’s counsel intends to depose additional employees of the Department of the Interior, including one witness who is located in the Denver, Colorado area.

Parties’ joint mot. am. CMO at 1-2 [ECF No. 23]. Furthermore, the parties participated in mediation in early December “and are still discussing the possibility of reaching a settlement agreement.” Id. at 2.

The Court finds the parties have conducted themselves diligently in their efforts to comply with the deadlines set forth in the CMO. This is their first request for extension of the CMO’s deadlines, and is a joint request. There is good cause for the changes in the CMO proposed by the parties. Accordingly, after careful consideration,

**IT IS HEREBY ORDERED** that the parties’ joint motion to amend the CMO [ECF No. 23] is **GRANTED** so that the following new deadlines and trial date are established for this case:

- (1) The parties shall complete all discovery in this case no later than **January 20, 2019**.
- (2) Any motions for summary judgment or for judgment on the pleadings must be filed no later than **February 6, 2019**, with briefs in opposition filed no later than **March 8, 2019**, and any reply brief filed no later than **March 22, 2019**.
- (3) The four-day jury trial is **RESCHEDULED** for **9:00 a.m. on June 17, 2019**.

  
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PATRICIA L. COHEN  
UNITED STATES MAGISTRATE JUDGE

Dated this 11th day of December, 2018